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FILED
OCT 22 1958
JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 423

TOM COOPER,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

BRIEF OF RESPONDENT IN OPPOSITION TO GRANTING OF WRIT OF CERTIORARI.

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I.

The Petition for Writ of Certiorari Should Be Denied.

Petitioner is attempting to secure a hearing in this Court upon the basis that the search and seizure under the valid warrant of arrest, as outlined in the petition, violated the Fourth Amendment and the self-incrimination and due process provisions of the Fourteenth Amendment to the Constitution of the United States.

In a prosecution in a state court for a state crime the Fourteenth Amendment does not forbid the admission of evidence obtained by an unreasonable search and seizure.

Wolf v. Colorado, 338 U. S. 25, 27, 93 L. Ed. 1782, 1785, 69 S. Ct. 1359;

Irvine v. California, 347 U. S. 128, 132, 98 L. Ed. 561, 569, 74 S. Ct. 381.

Nor does petitioner indicate any facts approaching coercion, applied by a physical assault upon the person such as to compel submission to the use of a stomach

pump, that could bring him within the sphere of *Rochin v. California*, 342 U. S. 165, 96 L. Ed. 183, 72 S. Ct. 205.

Moreover, the search and seizure in question was not unreasonable. Since this Court decided the above-cited cases California has adopted the exclusionary rule of illegally obtained evidence (*People v. Cahan*, 44 Cal. 2d 434, 282 P. 2d 905.) The opinion of the Appellate Department of the Superior Court (Petition, Appendix "A") and cases cited therein, clearly indicate a decision based entirely on California rules of evidence.

II.

Conclusion.

The petition for writ of certiorari does not disclose a clear and convincing showing that there has been a violation of petitioner's rights under the Federal Constitution, nor does it show that the highest court of the State of California has decided a federal question in conflict with applicable decisions of this Court, or decided a federal question of substance not theretofore determined by this Court.

Respondent prays that the petition be denied.

Respectfully submitted,

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